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Report of the International Criminal Court

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Note by the Secretary-General

The annual report of the International Criminal Court is submitted herewith to the General Assembly, in accordance with the provisions of article 6 of the Relationship Agreement between the United Nations and the International Criminal Court (see A/58/874, annex) and paragraph 12 of Assembly resolution 60/29.

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Report of the International Criminal Court for 2005-2006

Summary

The present report, covering the period from 1 August 2005 to 1 August 2006, is the second annual report of the International Criminal Court (hereafter "the Court") submitted to the United Nations. It covers the main developments in the Court's activities and other developments of relevance to the relationship between the Court and the United Nations.

The Court unsealed its first arrest warrants in October 2005. The first person arrested pursuant to a warrant issued by the Court was surrendered to the Court's custody in March 2006. Pre-trial and appeals proceedings were held, in anticipation of trials beginning in late 2006 or early 2007.

The Court continued its investigations in the Democratic Republic of the Congo, Uganda and Darfur, the Sudan. Through outreach and public information activities, the Court engaged in dialogue with local populations and the public about its role, proceedings and investigations.

In all phases of its activities, the Court relied on cooperation from States, the United Nations, other international organizations and civil society. The Court does not have its own police force to carry out its decisions or orders. It needs the assistance of others in, inter alia, gathering evidence, providing logistical support to operations in the field, relocating witnesses, arresting and surrendering persons and enforcing the sentences of the convicted.

The Court and the United Nations continued to build on the Relationship Agreement,[1] developing substantially the mutual cooperation between the two independent institutions. The Court also engaged with States, other international organizations, including regional organizations, and civil society to facilitate necessary cooperation. Nonetheless, substantial challenges to obtaining sufficient support remain. Over one year has passed since the Court issued its first warrants of arrest and the five subjects of the warrants remain at large. If trials are to be held, States and international organizations must assist the Court by arresting and surrendering those persons and others for whom warrants are issued in the future.

The Court today is becoming the centrepiece of an emerging system of international criminal justice involving national, international and hybrid tribunals, as well as such international organizations as the United Nations. The interrelationships between those different institutions has continued to develop, as evidenced by the Court's assistance to the Special Court for Sierra Leone and other efforts directed towards international justice.

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I. Introduction

1. During the year since the first report of the International Criminal Court ("the Court") submitted to the United Nations (A/60/177), the Court continued to be seized by situations in Uganda, the Democratic Republic of the Congo and the Central African Republic, all of which had been referred to the Court by the States parties themselves, and the situation in Darfur, the Sudan, which had been referred to the Court by the Security Council. Pending commencement of trials, each situation was assigned to a Pre-Trial Chamber comprised of three judges. During this period, the situations in Uganda, the Democratic Republic of the Congo and Darfur, the Sudan, were under investigation by the Prosecutor. No investigation was opened into the situation in the Central African Republic.

II. Proceedings

2. During the past year, judicial proceedings were conducted before the Court's Pre-Trial and Appeals Chambers. Significant developments included the unsealing of the first warrants of arrests and the first proceedings against an accused. In addition, the Chambers issued a wide range of decisions in relation to such matters as the rights of victims to participate in pre-trial proceedings, the system of pre-trial disclosure and the ordering of measures pursuant to unique investigative opportunities. All public decisions of the Court are published on its website (http://www.icc-cpi.int). The Court also continued to develop its infrastructure to ensure effective participation of victims and protection of the rights of the defence.

A. First warrants of arrest

3. On 14 October 2005, Pre-Trial Chamber II, the Chamber of the Court assigned responsibility for pre-trial matters in the situation in Uganda, unsealed the Court's first warrants of arrest. Warrants were issued for the following five members of the Lord's Resistance Army (LRA): Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen and Raska Lukwiya. They are charged with crimes against humanity and war crimes, including murder, sexual enslavement, intentionally attacking civilians, pillaging, rape, cruel treatment of civilians and the forced enlistment of child soldiers.

4. The warrants were issued on 8 July 2005 but were kept under seal until October owing to concerns about the security of victims and witnesses. The warrants were only made public once Pre-Trial Chamber II was satisfied that adequate measures were in place to ensure the security of victims and witnesses.

5. None of the five members of LRA have been arrested or surrendered to the Court. The Court does not have its own police to arrest them. It relies on the cooperation of States and international organizations to do so. Following the arrest warrants, Pre-Trial Chamber II issued requests for arrest and surrender to the Governments of Uganda, the Democratic Republic of the Congo and the Sudan, in whose territories LRA are believed to be located. On 1 June 2006, at the request of the Court's Prosecutor, the International Criminal Police Organization (Interpol) issued "red notices" alerting its member countries of the arrest warrants.

6. Pre-Trial Chamber I, which has responsibility for pre-trial matters in the situation in the Democratic Republic of the Congo, issued a warrant of arrest on 10 February 2006 (unsealed on 17 March 2006) against Thomas Lubanga Dyilo, alleged founder and leader of the Union des patriotes congolais and commander-in-chief of the Forces patriotiques pour la libération du Congo. He is alleged to have been involved in the commission of war crimes, namely, enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities.

B. First proceedings against an accused

7. On 17 March 2006, Mr. Lubanga was arrested and surrendered to the Court. The arrest and surrender of Mr. Lubanga was made possible by cooperation received from States and international organizations. Notably, the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo facilitated Mr. Lubanga's transfer by lifting the travel ban imposed against him for the purpose of his surrender to the Court.

8. On 20 March 2006, Pre-Trial Chamber I held a hearing to ensure that Mr. Lubanga was informed of the charges against him and of his rights under the Rome Statute. Since then, numerous hearings have been held in relation to a host of pre-trial issues litigated for the first time before the Court.

9. A hearing to confirm the charges against Mr. Lubanga is scheduled for the second half of 2006. If the charges are confirmed, the trial will commence thereafter. During and after the trial, the Court will continue to rely on the cooperation of States and others for such assistance as the provision of evidence to the Court, the protection and relocation of witnesses and the enforcement of the sentence in the event of a conviction.

C. Appeals proceedings

10. During the reporting period, the Appeals Chamber of the Court was seized with the first interlocutory appeals. Issues on appeal included the scope of possible appellate review and decisions of the Pre-Trial Chamber on jurisdiction and admissibility.

11. On 13 July 2006, the Appeals Chamber issued its first decision on the merits, dismissing the Prosecutor application for extraordinary review of a decision by Pre-Trial Chamber I. In the underlying decision, Pre-Trial Chamber I had denied the Prosecutor leave to appeal its decision granting the applications of six victims to participate in proceedings.

D. Assisting victims and counsel

12. Over the past year, the Court continued its efforts to ensure the effective implementation of the provisions of the Rome Statute with respect to the rights of victims and the defence.

13. Under the Rome Statute, victims are provided the opportunity to participate in proceedings, either directly or through legal representatives, and to obtain

reparations. In September 2005, the Court established the Office of Public Counsel for Victims to provide support and assistance to victims and their legal representatives in participating in proceedings and obtaining reparations.

14. In order to carry out the aims of the Rome Statute, it is vital that the rights of the defence are adequately ensured. In September 2005, the Court established the Office of Public Counsel for the Defence to provide necessary assistance to defence teams in accordance with the Rome Statute and Rules of Procedure and Evidence. The Court also established a list of counsel in accordance with the Rules of Procedure and Evidence. To date the list of counsel includes 152 persons. On 31 May and 1 June 2006, 100 counsel from the list participated in consultations with the Court through a seminar for counsel held in The Hague.

15. The Court appointed counsel from the list of counsel to represent the interests of the defence in forensic examinations and proceedings related to victims participation, assigned counsel to represent the first accused, Mr. Lubanga, prior to his selection of counsel, and provided him with counsel of his choice from the list.

III. Investigations

16. The Court's investigations are carried out by the Office of the Prosecutor. During the reporting period, the Office investigated the situations in the Democratic Republic of the Congo and Uganda, both of which had been referred to the Court by the States themselves, pursuant to article 14 of the Rome Statute, and the situation in Darfur, which had been referred to the Court by the Security Council (Security Council resolution 1593 (2005)), pursuant to article 13 (b) of the Statute.

17. The Court's Registry provided security, administrative and logistical support to the investigations, including through field offices in the Democratic Republic of the Congo, Uganda and Chad (in relation to the investigation in Darfur). Together, the Office of the Prosecutor and the Registry developed measures to ensure the safety of victims, witnesses and others at risk owing to the Court's investigations in all three situations. In carrying out its activities in the field, the Court also relied on cooperation and assistance from agencies of the United Nations system and from United Nations missions.

A. Democratic Republic of the Congo

18. During the reporting period, the Office of the Prosecutor conducted 45 investigation missions to six countries for the purpose of gathering evidence and witness testimony in relation to the situation in the Democratic Republic of the Congo. As indicated above, the investigation led, inter alia, to the issuance of an arrest warrant and the subsequent arrest and surrender of Mr. Thomas Lubanga Dyilo.

19. The Office of the Prosecutor opened a second case in the continuing investigation into the situation in the Democratic Republic of the Congo. The Office also continued to analyse the possibility of opening a third case in the situation.

20. In carrying out and supporting the investigation, the Court relied on the essential cooperation of the Government of the Democratic Republic of the Congo

and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), as well as other relevant actors. For example, MONUC assisted the Court by providing transport on MONUC planes and temporary accommodation in its camps. The Court endeavours to carry out its functions autonomously but in some areas it cannot operate without support.

B. Uganda

21. The Office of the Prosecutor continued to conduct missions to the field to carry out investigative work in Uganda and to assess the security of witnesses. The Office conducted 16 missions for the purpose of interviewing witnesses and others and collected documents and materials in preparation for the confirmation of the charges in the five outstanding arrest warrants.

22. The Office also conducted numerous missions to Uganda, the Sudan and the Democratic Republic of the Congo in relation to the Uganda investigation and had contact with other authorities to build support for arrest efforts. Cooperation with the Government of Uganda has been critical for the success of the Office's investigative efforts. On 2 October 2005, the Office of the Prosecutor concluded a cooperation agreement with the Sudan in relation to the investigation in Uganda.

C. Darfur, the Sudan

23. The investigation into the Darfur situation was opened on 6 June 2005, following the preliminary examination of the situation by the Office of the Prosecutor. The ongoing conflict has prevented the Office from investigating on the ground in Darfur, as the necessary security conditions are not present to ensure the protection of victims, witnesses or staff members. The Office has therefore focused its investigative activities outside Darfur.

24. Nearly a dozen lengthy missions have been conducted to collect evidence and testimony in neighbouring Chad, where many victims and witnesses have fled. A general framework for cooperation was concluded between the Government of Chad and the Court on 18 August 2005 by way of an exchange of letters. Security in Chad has deteriorated significantly during the past year. As a result, the Court's field presence was temporarily closed but has since reopened and resumed operations.

25. During the reporting period, the Office of the Prosecutor conducted more than 50 missions to 15 countries, screened close to 500 potential witnesses, took 61 formal witness statements and collected and reviewed more than 8,800 documents. The Office consulted with organizations and individuals and retained expert consultants to build in-house knowledge, with respect to such areas of particular importance as the incidence of sexual violence and the assessment of mortality rates.

26. The Office of the Prosecutor also conducted three missions to Khartoum. The first, in November 2005, was preparatory in nature. The second, in February 2006, focused entirely on the issue of admissibility of potential cases and had as its objective the assessment of national proceedings. The Office met with judges, prosecutors and representatives of the police and other Government departments. During the mission the Office gathered significant amounts of information relevant

to whether the Government of the Sudan had dealt with, or was dealing with, the cases that the Office was likely to select for prosecution. The third mission, in June 2006, dealt with matters relating to the investigation as such. The Office of the Prosecutor met with military officers to supplement a written report provided by the Government of the Sudan at the start of May 2006. The report provides information from the Government's perspective on the various phases of the conflict, matters relating to the military and security structures operating in Darfur, the activities of other parties to the conflict and the legal system governing the conduct of military operations.

27. The Office of the Prosecutor concluded eight arrangements with international organizations and other bodies for the provision of cooperation in relation to the Darfur investigation and issued dozens of requests for assistance to States.

28. The Prosecutor regularly briefed the Security Council on his investigation into the situation in Darfur, pursuant to Security Council resolution 1593 (2005). On 13 December 2005, the Prosecutor submitted his second report to the Security Council. In that report the Prosecutor updated the Council on the status of the investigation, including the selection of a number of alleged criminal incidents for full investigation. The Prosecutor also stated that the list of 51 names prepared by the International Commission of Inquiry on Darfur represented the conclusions of the Commission and was not binding on him. Rather, it would be used in a confidential manner for advisory purposes only.

29. The Prosecutor submitted his third report to the Security Council, on 14 June 2006. In that report the Prosecutor stated that, given the scale of the alleged crimes in Darfur and the complexities associated with the identification of the individuals bearing the greatest responsibility for the crimes, the Office anticipated the investigation and prosecution of a sequence of cases, rather than a single case dealing with the situation in Darfur as a whole. The Prosecutor also highlighted that the full cooperation of the Government of the Sudan and other parties to the conflict was vital and that the cooperation of organizations having a significant presence on the ground would continue to be essential.

D. Analysis of other potential situations

30. In addition to the three ongoing investigations, the Office of the Prosecutor conducted a series of intensive analyses in order to determine whether to open an investigation into seven other situations. Two of those situations were dismissed (Venezuela (Bolivarian Republic of) and Iraq) and five remain under analysis. Only situations under analysis, which have been made public by those who sent the communications or referrals, are made public by the Court.

31. With regard to the situation in Venezuela (Bolivarian Republic of), the Prosecutor concluded that the available information did not provide a reasonable basis for believing that crimes within the jurisdiction of the Court had occurred. In relation to the situation in Iraq, where the Court has jurisdiction only with respect to the nationals of States parties to the Rome Statute, the Prosecutor concluded that the available information supported a reasonable basis for believing that crimes within the jurisdiction of the Court had occurred, comprising a limited number of instances of wilful killing and/or inhuman treatment under article 8 of the Statute (war crimes). However, the situation did not appear to meet the required gravity threshold

of the Statute. The Prosecutor also noted that, although it was not necessary to consider further the admissibility of cases in the light of the conclusion on gravity, national proceedings had been initiated with respect to each of the relevant incidents. Under the "principle of complementarity", on which the Court is founded and which recognizes that it is the primary responsibility of States to exercise their criminal jurisdiction, a case is inadmissible if a national jurisdiction genuinely carries out an investigation or proceedings. The Prosecutor's conclusions of those two analyses are available on the Court's website.

32. The five situations that currently remain under analysis include situations in the Central African Republic, following the referral by that State party, and in Côte d'Ivoire, a non-State party which has filed a declaration accepting the jurisdiction of the Court. In those situations, the Office of the Prosecutor continued to assess whether crimes had been committed, to analyse the jurisdiction and admissibility of possible cases and to assess whether the opening of an investigation would be in the interests of justice.

IV. Outreach

33. The Court continued to work towards developing understanding and awareness of its role and activities in relation to both proceedings and investigations. It directed its efforts primarily towards those communities most affected by the situations under investigation. Through its outreach programme, the Court engaged in two-way communications with local communities in order to provide accurate information regarding its work and to make accessible its judicial proceedings.

34. The development and implementation of its outreach activities depends on the context in which the Court is operating, the phase of judicial activities and the information needs of specific target groups. The Court therefore developed situation-specific outreach strategies for Uganda, the Democratic Republic of the Congo and Darfur.

35. Over the past year, the Court increased its outreach activities in northern Uganda. In 2005, the Prosecutor and the Registrar held meetings with local Acholi, Madi, Langi and Teso leaders and their representatives. In 2006, the Court held informative meetings with over 120 local non-governmental organizations, 150 cultural leaders, 60 local government representatives and 50 religious leaders from across northern Uganda, as well as with journalists and such legal associations as the Uganda Human Rights Commission. The Court also disseminated information broadly through local radio programmes, newspapers and other printed materials.

36. In the Democratic Republic of the Congo, the Court organized workshops and seminars for such groups as judicial authorities, the legal community, non-governmental organizations and journalists. The Court used radio and television to provide general information about the Court, as well as information about the case against Thomas Lubanga Dyilo. Through partnerships with local radio stations in remote areas, the Court increased its ability to reach out to local populations affected by the situation under investigation.

37. In both Uganda and the Democratic Republic of the Congo, the Court conducted specific outreach activities in relation to the participation of and reparations to victims under the Rome Statute. The Court conducted workshops,

seminars, informational meetings and training modules on the rights of victims. The Court also disseminated informational materials and standard application forms for participation in proceedings or reparations. The Court has developed a network of reliable intermediaries, as well as cooperation with the United Nations, in order to reach out to victims and to inform them of their rights.

38. All of the Court's outreach activities are carried out within the context of an integrated strategy on external communications, public information and outreach, adopted by the Court in 2005. In the fall of 2006, the Court will submit a strategy specifically on outreach to the Assembly of States Parties to the Rome Statute. In developing that outreach strategy, the Court has sought out and incorporated information provided by other international tribunals, in particular the Special Court for Sierra Leone, given that institution's well-regarded outreach programme.

V. Institutional developments

A. Judiciary

39. The terms of six judges concluded during the reporting period. On 26 January 2006, the Assembly of States Parties to the Rome Statute met at United Nations Headquarters, re-electing Judges Akua Kuenyehia, Sang-Hyun Song, Hans-Peter Kaul, Erkki Kourula and Anita Ušacka, and electing Ekaterina Trendafilova as a judge, all to serve nine-year, non-renewable terms. The judges began their terms of office on 11 March 2006.

40. On 11 March 2006, the judges of the Court met in plenary session to assign judges to the three judicial divisions and to elect the Presidency of the Court. The judges are assigned as follows:

(a) Appeals Division: Erkki Kourula, President of the Division; Philippe Kirsch; Georghios Pikis; Navanethem Pillay; and Sang-Hyun Song;

(b) Trial Division: René Blattmann; Karl T. Hudson-Phillips; Elizabeth Odio Benito; Maureen Harding Clark; Anita Ušacka; and Adrian Fulford;

(c) Pre-Trial Division: Hans-Peter Kaul, President of the Division; Akua Kuenyehia; Claude Jorda; Mauro Politi; Fatoumata Dembele Diarra; Sylvia Steiner; and Ekaterina Trendafilova.

41. On 11 March 2006, the judges re-elected Judge Kirsch as President and Judge Kuenyehia as First Vice-President and elected Judge Blattmann as Second Vice-President, all to three-year terms.

42. Following their election, the members of the Presidency reconstituted Pre-Trial Chambers. The current Pre-Trial Chambers are as follows:

(a) Pre-Trial Chamber I: Judges Jorda (presiding), Kuenyehia and Steiner;

(b) Pre-Trial Chamber II: Judges Politi (presiding), Diarra and Trendafilova; and

(c) Pre-Trial Chamber III: Judges Steiner (presiding), Kaul and Trendafilova.

B. Strategic planning

43. In early 2006, the Court adopted the first version of its strategic plan. The plan provides a common framework for the Court's activities over the next 10 years, with emphasis on objectives for the immediate three years. The plan sets out how the Court will go about realizing the aims of the Rome Statute. Through the plan, the Court aims to set a clear direction for its future, ensure continuous coordination of its activities, demonstrate its transparency and further strengthen its relationships with States parties and other actors.

44. As stated in the strategic plan, the mission of the Court, as an independent judicial institution in the emerging international justice system, is to:

(a) Fairly, effectively and impartially investigate, prosecute and conduct trials of the most serious crimes;

(b) Act transparently and efficiently; and

(c) Contribute to long-lasting respect for, and the enforcement of, international criminal justice, to the prevention of crime and to the fight against impunity.

45. The strategic plan identifies three strategic goals for fulfilling the mission: to ensure the quality of justice; to become a well-recognized and adequately supported institution; and to be a model for public administration. Thirty strategic objectives provide detailed elements of the steps to reach those goals. The Court will provide a report on the strategic plan to the Assembly of States Parties to the Rome Statute in advance of its annual meeting in 2006.

VI. Developing international cooperation

46. Over the past year, the Court substantially developed its framework for institutional cooperation with the United Nations, as well as with States, regional organizations and other actors.

A. Cooperation with the United Nations

47. The Court and the United Nations concluded several supplementary arrangements within the framework provided by the Relationship Agreement between the two institutions. On 8 November 2005, the Court concluded a Memorandum of Understanding with the United Nations Organization Mission in the Democratic Republic of the Congo. The Memorandum of Understanding sets out a range of assistance measures for MONUC to provide to the Court, including logistical support and judicial assistance. During the past year, the Office of the Prosecutor concluded 10 new arrangements with programmes, funds and offices of the United Nations system, pursuant to article 18 of the Relationship Agreement.

48. In addition to the operational cooperation between the Court and the United Nations in the field, described in sections II and III above, the Court and the United Nations continued to discuss cooperation issues at their respective headquarters. As described in paragraphs 28 and 29 above, the Prosecutor regularly briefed the Security Council on his investigation into the situation in Darfur. On 8 November

2005, Judge Philippe Kirsch, President of the Court, submitted the first annual report (A/60/177) of the Court to the General Assembly (for the remarks of the President of the International Criminal Court, see A/60/PV.46). A series of meetings between the United Nations and Court officials was held on 23 and 24 January 2006, following previous meetings held in New York in July 2005.

49. On 12 April 2006, the members of the Presidency, Judges Philippe Kirsch, Akua Kuenyehia and René Blattmann, and Fatou Bensouda, Deputy Prosecutor, received Kofi Annan, Secretary-General of the United Nations, at the seat of the Court.

50. The Court took steps to further facilitate information-sharing and operational cooperation with the United Nations by establishing a fixed presence in New York. In December 2005, the Assembly of States Parties to the Rome Statute approved the establishment in New York of a liaison office of the International Criminal Court. The office will provide support to the Court in relation to operational cooperation with the United Nations at its Headquarters. The Court has begun to set up the office and intends to have it operational in 2006.

51. Pursuant to article 10 of the Relationship Agreement, in January 2006, the United Nations also provided facilities and services for the resumed fourth session of the Assembly of States Parties to the Rome Statute, which was held at United Nations Headquarters. At its fourth session, the Assembly of States Parties decided that in 2007 it would hold its resumed fifth session and its sixth session in New York.[2]

B. Cooperation with other actors

52. With regard to cooperation from States parties, part 9 of the Rome Statute provides the legal framework for the rendering of various types of judicial assistance, including the arrest and surrender of persons and the provision of other forms of cooperation. In order to enhance such cooperation, the Office of the Prosecutor has entered into a limited number of State-specific agreements. Examples include arrangements of modalities for the conduct of operations in territories where the Office is carrying out its investigative activities, as well as agreements in relation to the provision of classified information, pursuant to article 54 (3) (e) of the Statute. During the past year, the Office concluded three agreements with States parties to facilitate its investigations.

53. On 27 October 2005, the Court concluded an agreement with Austria establishing a framework for acceptance of persons sentenced by the Court. Under the Rome Statute, sentences of the Court are enforced in States willing to accept sentenced persons. Cooperation agreements facilitate those processes.

54. On 10 April 2006, the Court concluded a cooperation agreement with the European Union. The agreement covers such issues as the sharing of classified information, the testimony of European Union personnel, the waiver of privileges and immunities, cooperation with the Prosecutor, the provision of facilities and services, including support in the field, attendance at European Union meetings and cooperation on training for judges, prosecutors, officials and counsel.

55. During the past year, the Court also conducted negotiations on agreements with the African Union and with the Asian-African Legal Consultative Organization. The Court anticipates concluding both agreements in the near future.

56. On 29 March 2006, the Court signed an agreement with the International Committee of the Red Cross (ICRC) governing visits by ICRC to persons deprived of liberty pursuant to the jurisdiction of the Court. On 28 and 29 June 2006, ICRC made its first visit to the Court's Detention Centre in accordance with the agreement.

VII. Emerging system of international criminal justice

57. The Court and the United Nations are each part of an emerging system of international criminal justice. Within that system, the staff and officials of the different courts and tribunals regularly meet to share lessons from their experiences. The different courts and tribunals may also assist each other on practical issues regarding cooperation. For example, in 2006 the Court provided interpreters and specialized advice to the International Criminal Tribunal for Rwanda in the context of a hearing conducted by the Tribunal in the Netherlands.

58. The Court and the United Nations have also cooperated indirectly on two efforts to promote international justice: the Special Court for Sierra Leone and the International Independent Investigative Commission.

A. Assistance to the Special Court for Sierra Leone

59. The Special Court for Sierra Leone was established by an agreement between the United Nations and the Government of Sierra Leone. Its seat is in Freetown. Following the arrest of the former President of Liberia, Charles Taylor, the President of the Special Court indicated that it might not be possible for the Special Court to conduct Mr. Taylor's trial in Freetown, owing to security concerns. He therefore requested the assistance of the International Criminal Court to enable the Special Court to conduct the trial at the seat of the International Criminal Court in The Hague. The President of the International Criminal Court conveyed the request to the States parties to the Rome Statute, and it was accepted by them. On 13 April 2006, the two courts concluded a Memorandum of Understanding related to the trial of Mr. Taylor.

60. On 16 June 2006, the Security Council adopted resolution 1688 (2006) in relation to the trial being held in the Netherlands. On 19 June 2006, the President of the Special Court ordered that the trial be held in The Hague and that Mr. Taylor be transferred. The trial will be carried out by the judges and staff of the Special Court in accordance with the Special Court's Statute and Rules. The International Criminal Court is providing detention and courtroom services and facilities for the trial. All costs for the assistance of the International Criminal Court are to be paid by the Special Court in advance. In order for the trial to be held, the International Criminal Court will need to receive such funds from the Special Court.

B. International Independent Investigation Commission

61. On 21 December 2005, the Secretary-General wrote to the Prosecutor of the Court, expressing his intention to appoint Serge Brammertz, the Court's Deputy Prosecutor for Investigations, as Commissioner of the International Independent Investigation Commission and requesting the Prosecutor to release him for a period of six months to take up that important responsibility. On 22 December 2005, following consultation with States parties, the Prosecutor, in accordance with article 42 (2) of the Rome Statute, agreed to grant Mr. Brammertz a leave of absence for six months, until 15 July 2006. The decision was based on the conviction that it would be an important contribution of the Court towards efforts by other institutions to promote international justice.

62. On 2 June 2006, the Secretary-General requested that the Prosecutor grant Mr. Brammertz an additional leave of absence of approximately five months, until 31 December 2006, to continue his work with the International Independent Investigation Commission. The Prosecutor sought the advice of the States parties to the Rome Statute, noting that the extension of Mr. Brammertz's leave of absence would not compromise the effective functioning of the Office, but that as a matter of principle the States parties should agree with the decision. The States parties concurred with the request and the Prosecutor informed the Secretary-General that he had approved the extension of Mr. Brammertz's leave until 31 December 2006 to continue his work with the International Independent Investigation Commission. On 19 July 2006, the Secretary-General informed the Security Council of his intention to extend the mandate of Mr. Brammertz until 31 December 2006.

VIII. Conclusion

63. The Court has achieved considerable progress in its investigations and judicial proceedings over the past year. Effective cooperation and assistance provided by States, the United Nations and other international organizations and civil society have been essential in those activities.

64. Strong support and cooperation are critical to the success of the Court's efforts, in particular in relation to the arrest and surrender of accused persons, the provision of evidence, the relocation of witnesses and the enforcement of sentences. Over one year has passed since the Court issued its first arrest warrants and all five subjects of the warrants remain at large. The Court does not have its own police force to arrest those persons. If trials are to be held, States and international organizations must assist the Court by arresting and surrendering those persons and others for whom warrants are issued in the future.

Notes

[1] *Official Journal of the International Criminal Court*, Number ICC-ASP/3/Res.1, annex; United Nations document A/58/874, annex. Approved by the Assembly of States Parties to the Rome Statute on 7 September 2004 and by the General Assembly in its resolution 58/318 of 13 September 2004. The Relationship Agreement and all other documents published in the Official Journal of the Court are available on the Court's website (http://www.icc-cpi.int).

[2] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, fourth session, The Hague, 28 November-3 December 2005* (ICC-ASP/4/32), part III, operative paragraph 53 of resolution ICC-ASP/4/Res.4.